

REMARKS

Claims 1-16 are pending in this application. By this Amendment, claims 1, 4 and 11 are amended. The amendments introduce no new matter as they are supported at least by the depictions in Figs. 1 and 2. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

The Office Action, in paragraph 3, rejects claims 1-7, 10-12 and 14-16 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,142,343 to Trafton. This rejection is respectfully traversed.

Claim 1 recites, a tubular element having a longitudinal axis and at least one slot; and at least one pair of fixing elements configured for being mounted on the tubular element, at least one of the fixing elements comprising at least two fixing tabs configured for engaging in said at least one slot of the tubular element, the two fixing tabs being offset along said longitudinal axis of the tubular element when the at least one of the fixing elements is mounted on the tubular element.

Trafton discloses a maintenance-free anodized aluminum post having longitudinal grooves therein for mating with complementary brackets, the post being hollow and having a constant wall thickness (Abstract). Trafton discloses brackets 30, 40. To the extent that these brackets may include fixing tabs 32, 33 and/or 42, these fixing tabs do not comprise two fixing tabs being offset along a longitudinal axis of the tubular element when the fixing element is mounted on the tubular element.

For at least this reason, Trafton does not disclose all of the details of these features, as recited in claim 1. As such, Trafton cannot reasonably be considered to teach, or to have suggested, the combination of all of the features recited in independent claim 1.

Further, dependent claims 2-7, 10, 12 and 14 are also neither anticipated, nor would they have been suggested, by Trafton for at least their respective dependence directly or

indirectly on claim 1, as well as for the separately patentable subject matter that each of these claims recites.

With regard to claim 11, the Office Action, on page 4, asserts that Trafton discloses a fixing element comprising, among other features, "a face for pressing against one side of the panel and comprising stiffening ribs 32, 34, A, B." The Office Action then provides an annotated copy of Fig. 6 from Trafton in order to explain how the Examiner has interpreted the feature "comprising stiffening ribs."

Claim 11 recites, among other features, a face for pressing against one side of the panel and comprising stiffening ribs, said stiffening ribs being configured for bearing against a main face of the panel when the panel is assembled with the fixing element. Even if elements A and B, annotated in the Office Action, are considered stiffening ribs, they are not part of the face of the bracket 40 shown in Fig. 6 of Trafton configured for bearing against a main face of the panel when the panel is assembled with the fixing element. In other words, any alleged stiffening ribs in Trafton are not part of a face of the fixing element for pressing against one side of a panel as recited, among other features, in claim 11. Such stiffening ribs would have to be shown as located in face C of the annotated version of Fig. 6 of Trafton provided in the Office Action. This is simply not the case.

With regard to independent claim 15, the Office Action, on page 5, alleges that Trafton discloses a pair of fixing elements 30 configured for being mounted on the tubular element ... wherein the pair of fixing elements and the panel are configured to enable the panel to be held between the fixing elements, the fixing elements being disposed on either side of the panel. First, this is an incorrect reading of what element 30 of Trafton discloses. Element 30 is a single fixing element intended to mount a lateral member 36 which is integrally connected with the first portion 31 of the bracket 30 to a post 28 in a substantially perpendicular configuration of the lateral member 36 with respect to the base 8 of a groove 4

in the post 28 (see Figs. 3 and 5, and col. 4, lines 29-42 of Trafton). Trafton discloses that the member 36, integrally connected to the first portion 31, may be connected to or form part of a fence, wall or sign (col. 4, lines 42-43).

Claims 15 recites, among other features, at least one pair of fixing elements not made integrally with the panel and configured for being mounted on the tubular element, at least one of the fixing elements comprising two fixing tabs both for engaging in at least one slot of the tubular element, wherein the pair of fixing elements and the panel are configured to enable the panel to be held between the fixing elements, the fixing elements being disposed entirely on either side of the panel. Trafton cannot reasonably be considered to teach, or even to have suggested, the combination of all the features of at least one pair of fixing elements not made integrally with the panel ... the fixing elements being disposed entirely on either side of the panel, as is recited, among other features, in claim 15.

In reply to the above arguments, which were included in the previous Amendment, the current Office Action indicates that the Examiner disagrees with these arguments stating, on page 7, that "Trafton discloses an assembly comprising a pair of fixing elements 30, 40 not made integrally with the panel 52 (panel 52 and fixing elements 30 are separate elements; Fig. 7)." In this regard, the Office Action appears to combine the embodiments in Figs. 5-7 of Trafton, which is improper in a §102 analysis. The embodiments are clearly different as depicted, and as described. Fig. 5 is described at col. 4, lines 29-46. Specifically, "Fig. 5 shows a second bracket member or bracket 30 for mating with and interconnecting with post 28 by fitting within and occupying substantially the entire space of a groove 29 on post 28. Bracket 30 has a first portion 31 which is configured and dimensioned to fit within the groove 29 of post 28 ... Member 36 may be connected to or form part of a fence, wall, sign, etc." Fixing elements 30 are not disclosed or suggested as enabling a panel to be held between the

fixing elements being disposed on either side of the panel as is recited, among other features, in independent claim 15.

Claim 16 further recites the fixing elements being situated on either side of the panel without touching each other. As shown in Fig. 7 of Trafton, the alleged fixing elements 40, 40' are touching. Trafton, therefore, neither teaches, nor would it have suggested, the combination of all of the features recited in claim 16.

In like manner, the Examiner's rebuttal provided at the bottom of page 7 and the top of page 8 in the current Office Action refers again to multiple fixing elements 30, which are not disclosed or suggested as enabling a panel to be held between the fixing elements being disposed on either side of the panel. Additionally, as discussed above, the different embodiments of brackets (fixing elements) 30, 40 depicted separately in Figs. 5 and 7 of Trafton cannot be combined for a §102 analysis. One, as shown in Fig. 5, is made for being fixed completely within one of the longitudinal grooves 29 of the post 28 (shown in Fig. 3), and the other, as shown in Fig. 7, is intended to straddle a face 10 between two of the longitudinal grooves 29 of post 28. These embodiments do not separately disclose the combinations of all of the features recited in claims 15 and 16 and even if combined (which is improper) the embodiments would not have resulted in the combinations of all of the features recited in claims 15 and 16.

For at least the above reasons, Trafton cannot reasonably be considered to teach, or even to have suggested, the varying combinations of features recited in claims 1-7, 10-12 and 14-16. Accordingly, reconsideration and withdrawal of the rejection of claims 1-7, 10-12 and 14-16 under 35 U.S.C. §102(b) as being anticipated by Trafton are respectfully requested.

The Office Action, in paragraph 5, rejects claims 8, 9 and 13 under 35 U.S.C. §103(a) as being unpatentable over Trafton in view of French Patent No. FR 2 712 043 to Ateliers Reunis Caddie (hereinafter "the '043 patent"). This rejection is respectfully traversed.

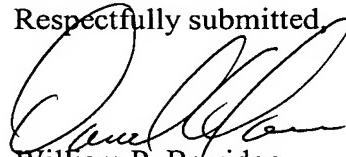
The Office Action recognizes that Trafton fails to disclose an assembly wherein one of the fixing elements includes a setback suitable for receiving a nut or the head of a screw, the depth of the setback ensuring that the nut or the head of the screw is received completely therein. The Office Action references the teaching of the '043 patent for this feature.

Because claims 8, 9 and 13 depend indirectly from claim 1, all of the features recited in claims 8, 9 and 13, in which the above specific features are varyingly recited, are neither taught, nor would they have been suggested, by the combination of the applied references for at least the dependence of these claims on claim 1. The '043 patent does not overcome the shortfall in the application of Trafton with respect to independent claim 1.

Accordingly, reconsideration and withdrawal of the rejection of claims 8, 9 and 13 under 35 U.S.C. §103(a) as being unpatentable over the combination of the applied references are respectfully requested.

In view of the foregoing, Applicants respectfully submit that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-16 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number set forth below.

Respectfully submitted,

William P. Berridge
Registration No. 30,024

Daniel A. Tanner, III
Registration No. 54,734

Attachments:

Petition for Extension of Time (Two Month)

WPB:DAT/cfr

Date: September 27, 2005

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

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